

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

W.P.No.45803 of 2018

ORDER:

According to the petitioner, his father was the owner and possessor of House bearing No.14-10-768 situated at Lower Dhoolpet, Hyderabad and his father blessed with six children, which include five sons and one daughter. Mother of petitioner and his elder brother obtained loan from 2nd respondent Bank to meet family necessities by creating mortgage over the above mentioned house by depositing partition deed. Both of them died. Petitioner alleges that 3rd respondent claiming herself as the only legal heir, approached the 2nd respondent Bank for release of charge created over the subject property, by paying the entire outstanding loan amount and on clearing the said amount, the documents were released in her favour.

2. This writ petition is filed questioning the action of the Respondent Bank in releasing the documents in favour of 3rd respondent without considering the representation of the petitioner dated 24.10.2018. In the said representation, petitioner brought to the notice of the Respondent Bank about the claim of other family members and alleges that the 3rd respondent is misusing the documents by selling the property claiming herself as the owner. In substance, petitioner alleges that the partition deed, which is the document mortgaged for obtaining loan from the Respondent Bank is being used to claim the property as belonging to 3rd respondent, thereby effecting the rights of the petitioner. If the petitioner has any claim of ownership with reference to the share in the subject property and if the petitioner alleges that the 3rd respondent is claiming herself as owner of the entire property, the petitioner has to work out his

remedies as available to him under law. Insofar as the Respondent Bank is concerned, mortgage was created on the subject property on account of the loan extended by the Bank and once the loan is cleared, the charge on the property can be dissolved and the document can be released. Merely because the document is released in favour of 3rd respondent on due satisfaction of amounts due, the bank cannot be held liable for release of documents on the ground of internal differences between the family members. These are two independent issues and there is no point in the petitioner to question the bank for release of documents after full discharge of liability. The writ petition merits no consideration.

3. Accordingly, the writ petition is dismissed, granting liberty to the petitioner to work out his remedies as available to him under law with regard to his claim over the subject property. As a sequel, the miscellaneous petitions if any, shall stand closed. There shall be no order as to costs.

Date: 28.3.2019
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